



Sen. Chris Lauzen

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1 AMENDMENT TO SENATE BILL 2894

2 AMENDMENT NO. _____. Amend Senate Bill 2894 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Procurement Code is amended by
5 changing Section 20-10 as follows:

6 (30 ILCS 500/20-10)

7 (Text of Section from P.A. 96-159 and 96-588)

8 Sec. 20-10. Competitive sealed bidding; reverse auction.

9 (a) Conditions for use. All contracts shall be awarded by
10 competitive sealed bidding except as otherwise provided in
11 Section 20-5.

12 (b) Invitation for bids. An invitation for bids shall be
13 issued and shall include a purchase description and the
14 material contractual terms and conditions applicable to the
15 procurement.

16 (c) Public notice. Public notice of the invitation for bids

1 shall be published in the Illinois Procurement Bulletin at
2 least 14 days before the date set in the invitation for the
3 opening of bids.

4 (d) Bid opening. Bids shall be opened publicly in the
5 presence of one or more witnesses at the time and place
6 designated in the invitation for bids. The name of each bidder,
7 the amount of each bid, and other relevant information as may
8 be specified by rule shall be recorded. After the award of the
9 contract, the winning bid and the record of each unsuccessful
10 bid shall be open to public inspection.

11 (e) Bid acceptance and bid evaluation. Bids shall be
12 unconditionally accepted without alteration or correction,
13 except as authorized in this Code. Bids shall be evaluated
14 based on the requirements set forth in the invitation for bids,
15 which may include criteria to determine acceptability such as
16 inspection, testing, quality, workmanship, delivery, and
17 suitability for a particular purpose. Those criteria that will
18 affect the bid price and be considered in evaluation for award,
19 such as discounts, transportation costs, and total or life
20 cycle costs, shall be objectively measurable. The invitation
21 for bids shall set forth the evaluation criteria to be used.

22 (f) Correction or withdrawal of bids. Correction or
23 withdrawal of inadvertently erroneous bids before or after
24 award, or cancellation of awards of contracts based on bid
25 mistakes, shall be permitted in accordance with rules. After
26 bid opening, no changes in bid prices or other provisions of

1 bids prejudicial to the interest of the State or fair
2 competition shall be permitted. All decisions to permit the
3 correction or withdrawal of bids based on bid mistakes shall be
4 supported by written determination made by a State purchasing
5 officer.

6 (g) Award. The contract shall be awarded with reasonable
7 promptness by written notice to the lowest responsible and
8 responsive bidder whose bid meets the requirements and criteria
9 set forth in the invitation for bids, except when a State
10 purchasing officer determines it is not in the best interest of
11 the State and by written explanation determines another bidder
12 shall receive the award. The explanation shall appear in the
13 appropriate volume of the Illinois Procurement Bulletin.

14 (h) Multi-step sealed bidding. When it is considered
15 impracticable to initially prepare a purchase description to
16 support an award based on price, an invitation for bids may be
17 issued requesting the submission of unpriced offers to be
18 followed by an invitation for bids limited to those bidders
19 whose offers have been qualified under the criteria set forth
20 in the first solicitation.

21 (i) Alternative procedures. Notwithstanding any other
22 provision of this Act to the contrary, the Director of the
23 Illinois Power Agency may create alternative bidding
24 procedures to be used in procuring professional services under
25 Section 1-75(a) of the Illinois Power Agency Act and Section
26 16-111.5(c) of the Public Utilities Act and to procure

1 renewable energy resources under Section 1-56 of the Illinois
2 Power Agency Act. These alternative procedures shall be set
3 forth together with the other criteria contained in the
4 invitation for bids, and shall appear in the appropriate volume
5 of the Illinois Procurement Bulletin.

6 (j) Reverse auction. Notwithstanding any other provision
7 of this Section and in accordance with rules adopted by the
8 Director of Central Management Services as chief procurement
9 officer, a State purchasing officer under that chief
10 procurement officer's jurisdiction may procure supplies or
11 services through a competitive electronic auction bidding
12 process after the purchasing officer explains in writing to the
13 chief procurement officer his or her determination that the use
14 of such a process will be in the best interest of the State.
15 The chief procurement officer shall publish that determination
16 in his or her next volume of the Illinois Procurement Bulletin.

17 An invitation for bids shall be issued and shall include
18 (i) a procurement description, (ii) all contractual terms,
19 whenever practical, and (iii) conditions applicable to the
20 procurement, including a notice that bids will be received in
21 an electronic auction manner.

22 Public notice of the invitation for bids shall be given in
23 the same manner as provided in subsection (c).

24 Bids shall be accepted electronically at the time and in
25 the manner designated in the invitation for bids. During the
26 auction, a bidder's price shall be disclosed to other bidders.

1 Bidders shall have the opportunity to reduce their bid prices
2 during the auction. At the conclusion of the auction, the
3 record of the bid prices received and the name of each bidder
4 shall be open to public inspection.

5 After the auction period has terminated, withdrawal of bids
6 shall be permitted as provided in subsection (f).

7 The contract shall be awarded within 60 days after the
8 auction by written notice to the lowest responsible bidder, or
9 all bids shall be rejected except as otherwise provided in this
10 Code. Extensions of the date for the award may be made by
11 mutual written consent of the State purchasing officer and the
12 lowest responsible bidder.

13 This subsection does not apply to ~~(i)~~ procurements of
14 professional and artistic services, including but not limited
15 to telecommunications services, communications services,
16 Internet services, and information services, ~~and (ii)~~
17 ~~contracts for construction projects.~~

18 (Source: P.A. 95-481, eff. 8-28-07; 96-159, eff. 8-10-09;
19 96-588, eff. 8-18-09; revised 11-4-09.)

20 (Text of Section from P.A. 96-159 and 96-795)

21 (This Section may contain text from a Public Act with a
22 delayed effective date)

23 Sec. 20-10. Competitive sealed bidding; reverse auction.

24 (a) Conditions for use. All contracts shall be awarded by
25 competitive sealed bidding except as otherwise provided in

1 Section 20-5.

2 (b) Invitation for bids. An invitation for bids shall be
3 issued and shall include a purchase description and the
4 material contractual terms and conditions applicable to the
5 procurement.

6 (c) Public notice. Public notice of the invitation for bids
7 shall be published in the Illinois Procurement Bulletin at
8 least 14 days before the date set in the invitation for the
9 opening of bids.

10 (d) Bid opening. Bids shall be opened publicly in the
11 presence of one or more witnesses at the time and place
12 designated in the invitation for bids. The name of each bidder,
13 the amount of each bid, and other relevant information as may
14 be specified by rule shall be recorded. After the award of the
15 contract, the winning bid and the record of each unsuccessful
16 bid shall be open to public inspection.

17 (e) Bid acceptance and bid evaluation. Bids shall be
18 unconditionally accepted without alteration or correction,
19 except as authorized in this Code. Bids shall be evaluated
20 based on the requirements set forth in the invitation for bids,
21 which may include criteria to determine acceptability such as
22 inspection, testing, quality, workmanship, delivery, and
23 suitability for a particular purpose. Those criteria that will
24 affect the bid price and be considered in evaluation for award,
25 such as discounts, transportation costs, and total or life
26 cycle costs, shall be objectively measurable. The invitation

1 for bids shall set forth the evaluation criteria to be used.

2 (f) Correction or withdrawal of bids. Correction or
3 withdrawal of inadvertently erroneous bids before or after
4 award, or cancellation of awards of contracts based on bid
5 mistakes, shall be permitted in accordance with rules. After
6 bid opening, no changes in bid prices or other provisions of
7 bids prejudicial to the interest of the State or fair
8 competition shall be permitted. All decisions to permit the
9 correction or withdrawal of bids based on bid mistakes shall be
10 supported by written determination made by a State purchasing
11 officer.

12 (g) Award. The contract shall be awarded with reasonable
13 promptness by written notice to the lowest responsible and
14 responsive bidder whose bid meets the requirements and criteria
15 set forth in the invitation for bids, except when a State
16 purchasing officer determines it is not in the best interest of
17 the State and by written explanation determines another bidder
18 shall receive the award. The explanation shall appear in the
19 appropriate volume of the Illinois Procurement Bulletin. The
20 written explanation must include:

21 (1) a description of the agency's needs;

22 (2) a determination that the anticipated cost will be
23 fair and reasonable;

24 (3) a listing of all responsible and responsive
25 bidders; and

26 (4) the name of the bidder selected, pricing, and the

1 reasons for selecting that bidder.

2 Each chief procurement officer may adopt guidelines to
3 implement the requirements of this subsection (g).

4 The written explanation shall be filed with the Legislative
5 Audit Commission and the Procurement Policy Board and be made
6 available for inspection by the public within 30 days after the
7 agency's decision to award the contract.

8 (h) Multi-step sealed bidding. When it is considered
9 impracticable to initially prepare a purchase description to
10 support an award based on price, an invitation for bids may be
11 issued requesting the submission of unpriced offers to be
12 followed by an invitation for bids limited to those bidders
13 whose offers have been qualified under the criteria set forth
14 in the first solicitation.

15 (i) Alternative procedures. Notwithstanding any other
16 provision of this Act to the contrary, the Director of the
17 Illinois Power Agency may create alternative bidding
18 procedures to be used in procuring professional services under
19 Section 1-75(a) of the Illinois Power Agency Act and Section
20 16-111.5(c) of the Public Utilities Act and to procure
21 renewable energy resources under Section 1-56 of the Illinois
22 Power Agency Act. These alternative procedures shall be set
23 forth together with the other criteria contained in the
24 invitation for bids, and shall appear in the appropriate volume
25 of the Illinois Procurement Bulletin.

26 (j) Reverse auction. Notwithstanding any other provision

1 of this Section and in accordance with rules adopted by the
2 chief procurement officer, that chief procurement officer may
3 procure supplies or services through a competitive electronic
4 auction bidding process after the chief procurement officer
5 determines that the use of such a process will be in the best
6 interest of the State. The chief procurement officer shall
7 publish that determination in his or her next volume of the
8 Illinois Procurement Bulletin.

9 An invitation for bids shall be issued and shall include
10 (i) a procurement description, (ii) all contractual terms,
11 whenever practical, and (iii) conditions applicable to the
12 procurement, including a notice that bids will be received in
13 an electronic auction manner.

14 Public notice of the invitation for bids shall be given in
15 the same manner as provided in subsection (c).

16 Bids shall be accepted electronically at the time and in
17 the manner designated in the invitation for bids. During the
18 auction, a bidder's price shall be disclosed to other bidders.
19 Bidders shall have the opportunity to reduce their bid prices
20 during the auction. At the conclusion of the auction, the
21 record of the bid prices received and the name of each bidder
22 shall be open to public inspection.

23 After the auction period has terminated, withdrawal of bids
24 shall be permitted as provided in subsection (f).

25 The contract shall be awarded within 60 days after the
26 auction by written notice to the lowest responsible bidder, or

1 all bids shall be rejected except as otherwise provided in this
2 Code. Extensions of the date for the award may be made by
3 mutual written consent of the State purchasing officer and the
4 lowest responsible bidder.

5 This subsection does not apply to ~~(i)~~ procurements of
6 professional and artistic services, (ii) telecommunications
7 services, communication services, and information services,
8 ~~and (iii) contracts for construction projects.~~

9 (Source: P.A. 95-481, eff. 8-28-07; 96-159, eff. 8-10-09;
10 96-795, eff. 7-1-10 (see Section 5 of P.A. 96-793 for the
11 effective date of changes made by P.A. 96-795); revised
12 11-4-09.)

13 Section 10. The Local Government Electronic Reverse
14 Auction Act (enacted by P.A. 96-588) is amended by changing
15 Section 15 as follows:

16 (50 ILCS 530/15)

17 Sec. 15. Application. This Act does not apply to ~~(i)~~
18 procurements of professional and artistic services, including
19 but not limited to telecommunications services, communications
20 services, Internet services, and information services,
21 ~~(ii) contracts for construction projects.~~

22 (Source: P.A. 96-588, eff. 8-18-09.)

23 Section 95. No acceleration or delay. Where this Act makes

1 changes in a statute that is represented in this Act by text
2 that is not yet or no longer in effect (for example, a Section
3 represented by multiple versions), the use of that text does
4 not accelerate or delay the taking effect of (i) the changes
5 made by this Act or (ii) provisions derived from any other
6 Public Act.

7 Section 99. Effective date. This Act takes effect upon
8 becoming law.".